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Annotated Code of Maryland
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*** CURRENT THROUGH THE 2005 REGULAR SESSION AND CHAPTERS 1 THROUGH 17
OF THE 2006 REGULAR SESSION ***

*** ANNOTATIONS ARE CURRENT THROUGH JUNE 2, 2006 ***

EDUCATION
DIVISION II. ELEMENTARY AND SECONDARY EDUCATION
TITLE 7. PUBLIC SCHOOLS
SUBTITLE 3. ATTENDANCE AND DISCIPLINE OF STUDENTS

GO TO MARYLAND STATUTES ARCHIVE DIRECTORY

Md. EDUCATION Code Ann. § 7-305 (2006)

THIS SECTION HAS MORE THAN ONE DOCUMENT WITH VARYING EFFECTIVE DATES.

§ 7-305. Suspension and expulsion [Amendments subject to contingent abrogation]

(a) Suspension for not more than 10 school days. —

(1) In accordance with the rules and regulations of the county board, each principal of a public school may suspend for cause, for not more than 10 school days, any student in the school who is under the direction of the principal.

(2) The student or the student's parent or guardian promptly shall be given a conference with the principal and any other appropriate personnel during the suspension period.

(3) The student or the student's parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7-310 of this subtitle.

(b) Suspension for more than 10 school days or expulsion. — At the request of a principal, a county superintendent may suspend a student for more than 10 school days or expel the student.

(c) Procedure for more than 10-day suspension or expulsion. —

(1) If a principal finds that a suspension of more than 10 school days or expulsion is warranted, the principal immediately shall report the matter in writing to the county superintendent.

(2) The county superintendent or the county superintendent's designated representative promptly shall make a thorough investigation of the matter.

(3) If after the investigation the county superintendent finds that a longer suspension or expulsion is warranted, the county superintendent or the county superintendent's designated representative promptly shall arrange a conference with the student and his parent or guardian.

(4) The student or the student's parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7-310 of this subtitle.

(5) If after the conference the county superintendent or the county superintendent's designated representative finds that a suspension of more than 10 school days or expulsion is warranted, the student or the student's parent or guardian may:

(i) Appeal to the county board within 10 days after the determination;

(ii) Be heard before the county board, its designated committee, or a hearing examiner, in accordance with the

procedures established under § 6-203 of this article; and

(iii) Bring counsel and witnesses to the hearing.

(6) Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the board.

(7) The appeal to the county board does not stay the decision of the county superintendent.

(8) The decision of the county board is final.

(d) Returning to school premises or classroom. —

(1) Any student expelled or suspended from school:

(i) Shall remain away from the school premises during those hours each school day when the school the student attends is in session; and

(ii) May not participate in school sponsored activities.

(2) The expelled or suspended student may return to the school premises during the prohibited hours only for attendance at a previously scheduled appointment, and if the student is a minor then only if accompanied by his parent or guardian.

(3) Any person who violates paragraph (1) or (2) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.

(4) (i) If a student has been suspended or expelled, the principal or a designee of the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.

(ii) If the disruptive behavior results in action less than suspension, the principal or a designee of the principal shall confer with the teacher who referred the student to the principal prior to returning the student to that teacher's classroom.

(5) A county superintendent may deny attendance to any student who is currently expelled from another school system for a length of time equal to that expulsion.

(6) A school system shall forward information to another school system relating to the discipline of a student, including information on an expulsion of the student, on receipt of the request for information.

(e) Bringing a firearm onto school property. —

(1) In this subsection, "firearm" means a firearm as defined in 18 U.S.C. § 921.

(2) Except as provided in paragraph (3) of this subsection, if the county superintendent or the superintendent's designated representative finds that a student has brought a firearm onto school property, the student shall be expelled for a minimum of 1 year.

(3) The county superintendent may specify, on a case by case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the county board, for a student who has brought a firearm onto school property.

(4) The State Board shall adopt regulations to implement this subsection.

(f) Students with disabilities. —

(1) The discipline of a child with a disability, including the suspension, expulsion, or interim alternative placement of the child for disciplinary reasons, shall be conducted in conformance with the requirements of the Individuals with Disabilities Education Act of the United States Code.

(2) If a child with a disability is being considered for suspension or expulsion, the child or the child's parent or guardian shall be given a community resources list attached to the procedural safeguards notice required by regulation of the State Board.

(g) Restitution for damage to school property. —

(1) This subsection does not apply if the student is referred to the Department of Juvenile Services.

(2) If a student violates a State or local law or regulation and during or as a result of the commission of that violation damaged, destroyed, or substantially decreased the value of school property or property of another that was on school property at the time of the violation, as part of a conference on the matter with the student, the student's parent or guardian and any other appropriate person, the principal shall require the student or the student's parent to make restitution.

(3) The restitution may be in the form of monetary restitution not to exceed the lesser of the fair market value of the property or \$2,500, or the student's assignment to a school work project, or both.

HISTORY: An. Code 1957, art. 77, § 95; 1978, ch. 22, § 2; ch. 686; 1979, ch. 65; 1990, ch. 702; 1991, ch. 578; 1995, ch. 347; 1996, chs. 4, 5; ch. 10, § 16; ch. 323; 1997, chs. 118, 120; 1998, ch. 21, § 1; ch. 726; 2003, ch. 53, § 4; 2005, ch. 414, § 1.

NOTES:

EFFECT OF AMENDMENTS.—Section 1, ch. 414, Acts 2005, effective July 1, 2005, substituted "the student's parent" for "his parent" in (a)(2), added (a)(3); substituted "expel the student" for "expel him" in (b); substituted "the principal immediately shall" for "he immediately shall" in (c)(1), substituted "the county superintendent's designated representative" for "his designated representative" in (c)(2), substituted "the county superintendent or county superintendent's" for "he or his" in (c)(3), added (c)(4) and redesignated the remaining subdivisions accordingly, substituted "the county superintendent's designated representative" for "his designated representative" and "the student's parent" for "his parent" in (c)(5); and added (f)(2).

EDITOR'S NOTE.—Section 2, ch. 347, Acts 1995, and ch. 323, Acts 1996, provides that "should Public Law 103-382, § 14601 et seq. of the United States Code, Improving America's Schools Act of 1994, be repealed or otherwise found unenforceable, § 7-304(e) [now § 7-305(e)] of the Education Article, as enacted by this Act, shall be abrogated and of no further force and effect, with no further action required by the General Assembly."

Section 18, ch. 53, Acts 2003, provides that "§ 8 of this Act shall take effect on the taking effect of the contingency specified in § 2 of Chapter 347 of the Acts of the General Assembly of 1995 and § 2 of Chapter 323 of the Acts of the General Assembly of 1996. If that contingency takes effect, § 7-305 of Article — Education as enacted by § 4 of this Act shall be abrogated and of no further force and effect."

Section 3, ch. 414, Acts 2005, provides that "Section 2 of this Act shall take effect on the taking effect of the contingency specified in Section 2 of Chapter 347 of the Acts of the General Assembly of 1995 and Section 2 of Chapter 323 of the Acts of the General Assembly of 1996. If that contingency takes effect, § 7-305 of Article — Education as enacted by Section 1 of this Act shall be abrogated and of no further force and effect."

Section 4, ch. 414, Acts 2005, provides that "this Act may not be construed to delay or preempt the suspension or expulsion of a student under § 7-305 of the Education Article."

MARYLAND LAW REVIEW.—For article, "An Adequate Education for All Maryland's Children: Morally Right, Economically Necessary, and Constitutionally Required," see 52 *Md. L. Rev.* 1137 (1993).

ROLE OF SUPERINTENDENT IN INVESTIGATION.—The statute does not require that the superintendent personally conduct investigations or write letters to parents; it merely requires her to consider the facts presented by her designees and to decide accordingly. *Mayberry v. Board of Educ.*, 131 *Md. App.* 686, 750 *A.2d* 677 (2000).

"STUDENTS WITH DISABILITY" DEFINED.—No provision of this article explicitly defines "student with a disability"; however, § 8-401(a)(1) of this article defines the equivalent term, "handicapped child [child with disability]." *Miller v. Board of Educ.*, 114 *Md. App.* 462, 690 *A.2d* 557 (1997).

ATTENTION DEFICIT HYPERACTIVITY DISORDER.—Despite evidence indicating that a student facing expulsion suffered from Attention Deficit Hyperactivity Disorder, where she had not been previously classified as handicapped, she could not benefit from the procedural protections of subsection (f) of this section; while the procedural safeguards of subsection (f) must be applied to every student who has been classified as a "handicapped child," nothing in this section—

or in any other law—requires that disciplinary proceedings must come to a halt upon a parent's request that the student be referred for a disability assessment. *Miller v. Board of Educ.*, 114 Md. App. 462, 690 A.2d 557 (1997).

LOWERED AGE NOT AFFECTING SECTION—Section is not affected by lowered age of majority from 21 to 18 years of age and continues to be applicable to all public school students whether over or under 18 years of age. 59 Op. Att'y Gen. 16 (1974).

PRIVATE SCHOOLS.—A State-approved private school must apply the same procedures to the suspension or expulsion of a handicapped child who was placed by a local school system as would be applied if the child were in a public school. If a handicapped child is placed independently of the local school system, a State-approved private school must apply its own procedures, sufficient to afford to the child's parents notice, a fair hearing, and an opportunity to appeal any suspension of more than 10 days or any expulsion. 75 Op. Att'y Gen. 181 (July 18, 1990).